

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.12.2015

CORAM:

THE HONOURABLE MR.JUSTICE S.MANIKUMAR
and
THE HONOURABLE MR.JUSTICE G.CHOCKALINGAM

W.P.No.15923 of 2015 &
M.P.No.1 of 2015

Mrs.Manimozhi

.. Petitioner

versus

1. The Registrar,
Central Administrative Tribunal,
Chennai.

2. The Chairman
Rail Bhavan,
Railway Board,
New Delhi.

3. The Member (Admn.)
Rail Bhavan,
Railway Board,
New Delhi.

4. The Chairman
National Commission for Scheduled Castes and
Scheduled Tribes, New Delhi.

5.The General Manager
Southern Railway
Madrass-3.

6. Mr.Ruban
(Token No.123)
Coaching Department,
Gopalsamy Nagar,
Egmore, Madras-8.

.. Respondents

Prayer: Writ petition filed under Article 226 of the
Constitution of India to issue a Writ of Certiorarified
Mandamus, to call for the records in O.A. No.810/01450/2014
under Dairy No.4997 of 2014 dated 25.09.2014 on the file of the

1st respondent (Registrar Central Administrative Tribunal Chennai) and quash the same as ultra vires unconstitutional and contrary to the provisions of Section 3(q) 3(q)(i) & 3(q)(r) of the Administrative Tribunals Act 1985 and contrary to the Judicial orders passed by the Honourable High Court in Crl.R.C.No.901 of 2005 dated 21.08.2008 and in Crl.O.P. No.21125 of 2011 dated 08.10.2013 and consequently direct the respondents 2 to 5 to initiate prosecution against the 6th respondent (husband of the petitioner) for having committed the act of Bigamy as per the relevant conduct rules as applicable to the employees of the Railway Administration and thereby, directing the respondents 2 to 5 to initiate the departmental action as well as criminal prosecution against all concerned for aiding the 6th respondent in allowing the 6th respondent to get the entire terminal matters, by suppressing the fact that the petitioner is the legally wedded wife of the 6th respondent.

For Petitioner :Mr.M.Shanmugam
for Shanmugha Associates

For respondents 2, 3 & 5 :Mr.V.Hari Babu
R1-Tribunal
R2-No Appearance

ORDER

(Order of the Court was made by S.MANIKUMAR, J.)

Challenge in this writ petition, is to the order, made in Dairy No.4997 of 2014, dated 25.09.2014, by which, the Central Administrative Tribunal, Chennai, has dismissed the above diary application, as not maintainable.

2. Facts, as deduced from the material on record, are that the 6th respondent is the husband of the petitioner. According to the petitioner, she was thrown out of the matrimonial home. Thereafter, he contracted second marriage with another woman. He refused to maintain the petitioner, without any just cause. Therefore, the petitioner filed M.C.No.240 of 2004, on the file of the Family Court, Chennai and vide order, dated 20.06.2004, an order of maintenance, at the rate of Rs.1,500/- per month, was passed. Being aggrieved by the same, the 6th respondent/husband has filed Crl.R.C.No.901 of 2005. Vide order, dated 21.08.2008, this Court has confirmed the order of maintenance and dismissed the revision. While doing so, this Court has granted liberty to the petitioner to produce the copy of the order made in the revision petition to the competent authority for receiving the arrears of maintenance.

3. The petitioner has further submitted that based on the order made in Crl.R.C.No.901 of 2001 and the liberty granted by this Court, she made a representation, dated 01.11.2008, to (i) the General Manager, Souther Railway, Madras, (ii) The Divisional Railway Manager, Southern Railway, Madras-5 and (iii) The Assistant Mechanical Engineer, Coaching Depot, Southern Railway, Madras, requesting them to make suitable entries in the official records that she is the legally wedded wife of Ruban and entitled to monetary benefits of the said Ruban, arrears of maintenance and appointment of her son, Mr.Balaji, in the event of Railways giving any appointment to the employees of Railways. In the said representation, she also pleaded that no claim from any woman or children born through such woman can be entertained, as nobody else is entitled to claim any benefit through Mr.Ruban, except herself and her son. The said representation is extracted hereunder:

Madras,

Dated : 1.11.2008.

From
Mrs.Manimozhi,
w/o.Ruban,
(Token No.123,C/o.SSE/MS),
Coaching Depot, of
Asst.Mech.Engineer,
Egmore, Madras.

To
The General Manager,
Southern Railway, Madras.

The Divisional Railway Manager,
Southern Railway, Madras-3.

The Asst.Mechanical Engineer,
Coaching Depot, Southern Railway,
Gopalsamy Nagar, Egmore, Madras.8.

Sirs,

Ref : Compliance of Hon'ble High Court's
order and

Family Court's Order - Reg.

I submit the following for your kind
consideration and for follow-up action.

I submit that I am the LEGALLY WEDDED WIFE of
Mr.Ruban, who has been working as Sr.Mechanic under
Token No.2134 of SSE/MS, Coaching Depot under the
control of Asst.Mechanical Engineer, Egmore, Madras.
The said matrimonial relationship between myself and
my husband Mr.Ruban still continues.

I further submit that the said Mr.Ruban forcibly sent me out of the matrimonial home and Mr.Ruban has been living with another woman by name Mrs.Lourdhu Marry for several years and through her two children were born to them. This has been admitted by him in his evidence before the Family Court as could be seen from the order of the II Addl.Family Court dt.16.5.2008 in F.C.O.P.2467/04. Even the petition filed by the said Mr.Ruban came to be dismissed and therefore the relief asked for by Mr.Ruban for divorce has been dismissed. Therefore it is clear that I am the legally wedded wife of the said Mr.Ruban so as to claim maintenance and all benefits out of the service benefits of GPF, Gratuity, Pension, Arrears of Pay Commission and appointment for my son Mr.Balaji in the place of my husband Mr.Ruban.

Therefore, I request that the maintenance amount awarded at the rate of Rs.1500/- p.m., has been paid by my husband to me till date, for the past 78 MONTHS. This is clear from the reading of the order of the Hon'ble High Court in Crl.R.C.501 of 2005 dt.21.8.2008. While dismissing the said Crl.R.C.501/2005 filed by my husband against me against the maintenance, the Hon'ble High Court was pleased to observe that I am at liberty to proceed further for receiving arrears of maintenance from the concerned authorities.

I further submit that since the said Mr.Ruban has miserably failed before the Family Court as well as before the Hon'ble High Court, I request that I being the legally wedded wife of Mr.Ruban, I am entitled to all the benefits through my husband Mr.Ruban from the Railways, including appointment, if any, to my son Mr.Balaji.

Hence, I request that suitable entries may kindly be made in the official records of the Railways that I am the legally wedded wife of Mr.Ruban, and I am entitled to equally the entire monetary benefits of Mr.Ruban, arrears of maintenance, and including appointment for my son Mr.Balaji, in the event of Railways giving any appointment to the employees of Railways. I also further request that no claim from any woman or children born through such woman can be entertained as no body else is entitled to claim any benefit through Mr.Ruban, except myself and my son.

Yours faithfully,
Sd/- (Manimozhi)

4. Further representation, dated 01.03.2009 is also extracted hereunder:

Madras
Dated : 1.03.2009

From
Mrs.Manimozhi,
w/o.Ruban,
No.17, Rex St., Chindadripet,
Madras-2.

To

1. The General Manager,
Southern Railway, Madras.
2. The Divisional Railway Manager,
Southern Railway, Madras.
3. The Asst.Mechanical Engineer,
Coaching Depot, Gopalsamy Nagar,
Southern Railway, Egmore, Madras.8.

Sirs,

Sub : Compliance of Hon'ble High Court's Order
and
Family Court's Order followed my
representation dt.1.11.2008 - Reg.

In inviting your kind attention to the above, I request tht if any final order has been passed on my representation dt.1.11.2008, on the strength of the orders of the Hon'ble High Court, Madras, in Crl.R.C.Nos.901/06 dt.21.8.2008 and the orders of maintenance passed in M.C.240/04 dt.22.6.2004 passed by the I Additional Family Court, Madras, the same may be communicated to me at an early date.

Further, if the arrears of maintenance has been finalised, the same be paid over to me at an early date, as I am struggling and suffering for my bread and shelter.

Yours faithfully,
Sd/- (Manimozhi)

5. Thereafter, the petitioner has filed W.P.No.9443 of 2009, for a Mandamus, directing the the respondents therein, viz., (1) the General Manager, Souther Railway, Chennai, (2) The Divisional Railway Manager, Southern Railway, Chennai and (3) The Assistant Mechanical Engineer, Coaching Depot, Southern Railway, Chennai, to pass orders, on her representation, dated

01.11.2008, followed by a reminder, dated 01.03.2009. Vide order, dated 27.05.2009, this Court directed the General Manager, Southern Railway, Chennai, 1st respondent therein, to pass orders, on the representation, dated 01.11.2008, within a period of twelve weeks, from the date of receipt of the copy of that order. This Court also directed the 1st respondent therein, to issue notice to Mr.Ruban, before considering the said representation. The said order is extracted hereunder:

"The prayer in the writ petition is for the issuance of a writ of mandamus to direct the respondents to pass orders on the representation made by the petitioner dated 01.11.2008 followed by a reminder dated 01.03.2009 on the strength of the orders of this Court dated 21.08.2008 in Crl.R.C.No.901 of 2005 and the orders of the I Additional Family Court, Chennai in M.C.No.240 of 2004 dated 22.06.2004.

2. I have heard the learned counsel for the petitioner and Mr.M.Vellaichamy, learned counsel appearing for respondents 1 to 3 and Mr.M.G.Harikrishnan, learned counsel appearing for the fourth respondent.

3. Considering the limited prayer sought for in this writ petition, there shall be a direction directing the first respondent to consider the representation of the petitioner dated 01.11.2008 and the consequential reminder dated 01.03.2009 and pass appropriate orders on merits and in accordance with law within a period of twelve weeks from the date of receipt of a copy of this order. The first respondent shall also issue notice to the fourth respondent before disposing of the representation made by the petitioner.

4. With the above direction, this writ petition is disposed of. No costs."

6. Material on record further discloses that pursuant to the order of this Court, the Senior Personnel Officer/M&E/Chief Personnel Officer, Chennai, in his letter No.P(S)353/IV/MAS Dn.Court Cases, dated 12.08.2009, has sent a reply to the petitioner. The said reply is extracted hereunder:

SOUTHERN RAILWAY
No:P(S) 353/IV/MAS Dn.Court Cases

Headquarters Office,
Personnel Branch,
Madras-3.

Dt.12-08-2009.

Smt.Manimozhi,
No.17, Rex Street,
Chintadripet, Chennai-600 002.

Madam,

Sub :-Orders dated 27-05-2009 of the
Hon'ble High Court of Madras in
W.P.No.9443 of 2009 - reg.

Ref:- Your representation dated 01-11-2008
followed by reminder letter, dated
01-03-2009.

&&&&

In obedience of the orders dated 27-05-2009 of
the Hon'ble High Court of Madras in W.P.NO.9443, your
representation dated 01-11-2008 and reminder letter
dated 01-03-2009 were considered by the General
Manager and the following orders were passed :-

"In compliance with the orders of the Hon'ble
High Court, Shri S.Ruban, Technical Grade-I,
DME/GSN/O/M9 was issued with a notice and he has
submitted representation dated 20th July,2009.

In the representation of the petitioner dated 01-
11-2008 and the consequential reminder dated 01-03-
2009, the petitioner has made the following claims :-

- (a) The benefits out of the service of Shri S.Ruban
like PF, Gratuity, Pension, Arrears of Pay
Commission, etc.
- (b) Payment of Rs.1500/- per month as maintenance
amount as awarded by the Family Court.
- (c) Appointment of Shri Balaji, son of the
petitioner.

All the above points have been examined and the
following orders are passed :-

- i. Shri S.Ruban, who is in service on date, is
due for superannuation on 30th November, 2009. As per
the extant instructions, the settlement dues like

Pension, DCRG, Leave Salary, etc. are payable to the employee only, on his superannuation.

ii. As regards Family Pension, appropriate decision regarding the eligible person will be taken, as per law, as and when the contingency arises.

iii. As there is no order on attachment of salary towards the maintenance amount, no action in this regard can be taken by the administration.

iv. As per rules, no appointment to wards of retired/retiring employees is admissible. Hence, the question of considering the appointment of Shri Balaji, son of Smt. Manimozhi, cannot be considered.

Please note.

Yours faithfully,

(M. Pannerselvam)

Senior Personnel Officer/M&E
/Chief Personnel Officer.

Copy to : Sr.DPO/MAS - for information please.

7. Subsequently, the petitioner has submitted another representation, dated 09.10.2009. Thereafter, she has filed W.P.No.22782 of 2009, for a Mandamus, directing the General Manager, Southern Railway, Chennai, 1st respondent therein, to consider and pass orders, on the abovesaid representation and communicate the final orders thereon. The said Writ Petition has been dismissed on 05.01.2010, as follows:

"This is the third writ petition filed by the petitioner. In the first writ petition, the petitioner sought for certain details in W.P. No.9443 of 2009. This Court by an order dated 27.05.2009 directed the respondents to furnish the information sought for by the petitioner. Pursuant to the direction, the respondents, Southern Railway by a communication dated 12.08.2009 informed the petitioner the details of her husband's terminal benefits including the fact that he has to retire from service on 30.11.2009 and the further fact that there was no attachment of his salary towards realisation of maintenance amount ordered by the Family Court. The petitioner has once again sent further representations dated 30.09.2009 and 09.10.2009.

2. The learned counsel for the respondent Southern Railway now states that the petitioner subsequently filed another Writ Petition and when it came up for maintainability, this Court rejected the contention made by the petitioner, on the ground that

such a Writ Petition will not lie and the petitioner will have to move the Central Administrative Tribunal for such information. The petitioner has also come up with the present Writ Petition in W.P. No.22782 of 2009 seeking for disposal of her representation dated 09.10.2009.

3. The learned counsel for the Southern Railways once again raised the same objection.

4. A perusal of the representation made by the petitioner shows that it does not relate to any service grievance of a Central Government Servant and it is more in the nature of collecting information from the Railways regarding her husband's dues on his superannuation. Therefore it cannot be said that such a Writ Petition is not maintainable or that it relate some service grievance of the Central Government Servant. Therefore the jurisdiction solely vest with this Court. Alternatively, the learned counsel stated that whatever information sought for in the representation dated 09.10.2009 has been already answered by the respondent Railways by their earlier communication dated 12.08.2009 and there is no further information to be provided and it is for the petitioner to work out her claims in the manner known to law.

5. The contention raised by the respondents is well founded. A perusal of the earlier reply shows that the relevant information has been furnished to the Petitioner. Therefore the petitioner in the guise of seeking the disposal of her representation has also filed M.P. No.1 of 2009 asking for interim injunction from proceeding to finalise terminal dues of her husband and decide the issue in terms of the Family Court's Order dated 16.05.2008. As rightly contended by the learned standing counsel Mr. R. Gandhikumar, the petitioner has failed to seek execution of the order by the Family Court. Even otherwise the Miscellaneous Petition does not arise out of the main Writ Petition. In the light of the above, the Writ Petition stands dismissed. No costs. Consequently, connected M.P. is closed.

8. Being aggrieved by the same, the petitioner has filed W.A.No.119 of 2010 and the same has been dismissed on 05.08.2010. Operative portion of said judgment is extracted hereunder:

"3. The learned single Judge while dismissing the Writ Petition took note of the fact that this was the third Writ Petition and also that pursuant to the

order passed in the earlier Writ Petition the relevant information has been furnished to the petitioner and that this Writ Petition itself seeking disposal of the representation has been filed only for interim relief. The learned single Judge accepted the submissions made by the counsel for the respondent that the petitioner having failed to seek execution of the Family Court's order had filed these several Writ Petitions.

4. We find from the typed set of papers where a copy of the earlier W.P.No.9443/2009 is filed, the prayer there is for passing orders on the representation dated 1.11.2008 followed by a reminder dated 01.03.2009 on the strength of the orders passed in Crl.R.C.No.901/2005 and orders passed in M.C.No.240/2004. This Court directed the respondents to consider and pass orders on the representation. This was duly complied with by the respondents by their communication dated 12.8.2009 a copy of which is also enclosed in the typed set of papers.

5. The learned counsel appearing for the respondents submitted that W.P.SR.No.87755/2009 was filed only for the same relief, but it was dismissed at the SR.stage on the ground of maintainability.

6. The learned counsel for the petitioner submitted that the petitioner is in a pathetic stage and virtually in the deathbed and therefore, some interim relief may be granted.

7. When the petitioner is not entitled to have her representation considered in view of the earlier orders passed, there is no question of granting any interim relief. In fact we are dismayed to find that the affidavit filed in support of the present Writ Petition does not mention the earlier Writ Petitions, the orders passed thereon and the compliance by the first respondent. The crucial facts have been suppressed by the Writ Petitioner. We were inclined to impose heavy costs on the Writ Appellant but for the submission made by the learned counsel relating to the petitioner's ill-health. For this reason alone we refrain from imposing the costs, but we record our disapproval.

8. The Writ Appeal is dismissed. No costs. Consequently, M.P.No.1/2010 is also dismissed."

9. Thereafter, the petitioner has filed W.P.No.19345 of 2010, challenging the letter, dated 12.08.2009, by which, the Senior Personnel Officer/M&E/Chief Personnel Officer, Chennai, has sent a reply to the petitioner. In the said writ petition, the petitioner has sought for a direction to the respondents 1 and 2 therein, viz., (1) the General Manager, Souther Railway, Chennai and (2) the Senior Personnel Officer/M&E/Chief Personnel Officer, Chennai, to correct the official records, showing that the petitioner as the legally wedded wife of the third respondent therein, viz., Mr.Ruban and entitled to claim as successor to the terminal and service benefits of Mr.Ruban, working under the respondents 1 and 2 therein and for a further direction to respondents 1 and 2 therein, to disburse the maintenance arrears payable by Mr.Ruban, from and out of the terminal benefits and other monetary benefits, accruing on account of Mr.Ruban, in compliance of the orders of the Family Court, Chennai, dated 22.06.2004, passed in M.C.No.240 of 2004 and this Court in Crl.R.C.No.901 of 2006, dated 21.08.2008. After notice to the respondents therein, the said writ petition has also been dismissed on 27.10.2010, in the following manner:

"5. As rightly pointed out by the learned counsel for the respondent railway, the impugned order has been passed pursuant to the direction of this Court to consider and pass orders on the representation. The impugned order would clearly indicate that the petitioner's request in all aspects has been ordered in accordance with law. In fact, any amount of terminal benefits payable during the lifetime of an employee could be paid only to the concerned person. Similarly, the order obtained by the petitioner in a family Court could not be executed since it did not pass any attachment order. Therefore, the impugned order passed by the authority is well within the norms. Insofar as the claim for future pension is concerned, it could be agitated only in the event of death of the employee. It is always open to the petitioner to agitate the same, only when such contingency arises.

6. Therefore, there is no impediment or irregularity or illegality in the order passed by the respondent. As stated by the learned counsel for the respondent railway and as per the decision of the Division Bench of this Court, it is very clear that the petitioner has been filing one petition to another petition. Considering the pathetic stage of the petitioner, who is the wife of the third respondent and who claims that she has been sent out by her husband, the Division Bench did not pass any

orders relating to cost. The Division Bench of this Court, while dismissing the Writ Appeal filed by the petitioner, has held as follows:

"When the petitioner is not entitled to have her representation considering in view of the earlier orders passed, there is no question of granting any interim relief. In fact we are dismayed to find that the affidavit filed in support of the present writ petition does not mention the earlier writ petitions, the orders passed thereon and the compliance by the first respondent. The crucial facts have been suppressed by the writ petitioner. We were inclined to impose heavy costs on the writ appellant but for the submission made by the learned counsel relating to the petitioner's ill - health. For this reason alone we refrain from imposing the costs, but we record our disapproval."

In view of the above, this Court cannot grant any relief as claimed by the petitioner. The writ petition is dismissed. No costs. Consequently, connected Miscellaneous Petitions are closed."

10. Thereafter, on the basis of the complaint, dated 23.11.2010, alleging Bigamy, the petitioner has filed CrI.O.P.No.28625 of 2010, for a direction to the Commissioner of Police, Chennai and the Inspector of Police, Choolaimedu Police Station, Chennai, to take action on the abovesaid complaint and register an FIR, against Mr.Ruban, for having committed an act of Bigamy, punishable under the Indian Penal Code. This Court, vide order, dated 16.12.2010, directed the Inspector of Police, Choolaimedu Police Station, Chennai, 2nd respondent herein, to register a case, on the basis of the abovesaid complaint. The said order is as follows:

"This petition has been filed under section 482 Cr.P.C, seeking a direction to the respondents to take action on the petitioners complaint dated 23.11.2010 and register the FIR against the said Mr.Ruban for having committed an act of Bigamy, punishable under the Indian Penal Code."

2. Heard the learned counsel for the petitioner and also the learned Additional Public Prosecutor.

3. The petitioner had preferred a complaint dated 23.11.2010. On perusal of the complaint it is seen that if the allegations therein are true, the same would reflect the commission of the offence of Bigamy. Accordingly, the 2nd respondent is directed

to register a case on the petitioner's complaint dated 23.11.2010 and deal with the same in accordance with law."

11. Subsequently, the petitioner has filed another CrI.O.P.No.11922 of 2011, for a direction to the Inspector of Police, Choolaimedu Police Station, Chennai, to file a final report, on the strength of the order made in CrI.O.P.No.28625 of 2010, dated 16.12.2010. The above CrI.O.P., has been disposed of, on 19.05.2011, as follows:

"This petition has been filed under section 482 Cr.P.C, seeking a direction to the respondent police to file a final report as to the compliance of the orders of this Court dated 16.12.2010 in CrI.O.P.No.28625 of 2010 and filing of charge sheet against the accused.

2. Heard the learned counsel for the petitioner and also the learned counsel Mr.A.N.Thanmbidurai, appearing for learned Public Prosecutor.

3. The learned counsel appearing for the petitioner submitted that this Court by order Dated 16.12.2010 in CrI.O.P.No.28625 of 2010, directed the second respondent to register a case on the petitioner's complaint dated 23.11.2010 and deal with the same in accordance with law, alleging non compliance of the said order, the petitioner before this Court with this petition.

4. Considering the facts and circumstances of the case, this Court direct the respondent to file a report as to whether the order dated 16.12.2010 in CrI.O.P.No.28625 of 2010 has been complied with. With the above direction, this Criminal Original Petition is disposed of."

12. Not satisfied with the order made in CrI.O.P.No.11922 of 2011, dated 19.05.2011, the petitioner has filed CrI.O.P.No.21125 of 2013, for a direction to the respondents, viz., (1) The Commissioner of Police, Chennai and (2) The Inspector of Police, Choolaimedu Police Station, Chennai, to disclose the stage of investigation, by way of filing a status report, in the light of the orders passed in CrI.O.P.No.28625 of 2010, dated 16.12.2010 and CrI.O.P.No.11922 of 2011, dated 19.05.2011. The matter has been placed before My Lord The Hon'ble Chief Justice. Pursuant to which, a Hon'ble Division heard the matter and disposed of, on 08.10.2013. The operative portion of the order made in CrI.O.P.No.21125 of 2013, dated 08.10.2013, is extracted hereunder:

"3. Today, when the matter is taken up for consideration, the learned Additional Public Prosecutor submitted that the complaint was given by the petitioner herein with the Sub-Inspector of Police, Korukkupet. On receipt of the same, the Korukkupet Police Station assigned CSR No.5 of 2013.

4. Since CSR No.5 of 2013 has been assigned, this Court directs the Sub-Inspector of Police, Korukkupet, to conduct an enquiry in CSR No.5 of 2013 and dispose of the same, in accordance with law, as early as possible.

5. Accordingly, the present Criminal Original Petition is disposed of."

13. The petitioner has submitted a representation, dated 12.12.2013, to (1) The Chairman, Railway Board, New Delhi, (2) The Member (Admn.), Railway Board, New Delhi, (3) The Chairman, National Commission for Scheduled Caste and Scheduled Tribes, New Delhi, to issue suitable directions to the Southern Railway, Madras, to settle her maintenance amount from 2004 and to effect changes in the official records of Southern Railway, to show that she is the legally wedded wife of the said Ruban and prosecute Ruban for having committed an act of 'Bigamy' in the manner known to law. Thereafter, the petitioner has filed W.P.Sr.No.33687 of 2014, for a Mandamus, directing the respondents 1 to 4 therein, to consider her representation, dated 12.12.2013. This Court, vide order, dated 03.04.2014, has returned the cause papers to the petitioner, stating that the Writ Petition is not maintainable and Central Administrative Tribunal or Civil Court alone, has jurisdiction to grant the relief, sought for in the unnumbered writ petition.

14. It is the case of the petitioner that in terms of the order made in W.P.Sr.No.33687 of 2014, dated 03.04.2014, she approached the Central Administrative Tribunal, Madras, in Dairy No.4997 of 2014, for the abovesaid relief. It is also her submission that in the course of hearing, the Railway authorities have admitted the act of bigamy committed by the 6th respondent, viz., Mr.Ruban. Even before the Family Court, Chennai, in M.C.No.240 of 2004, the 6th respondent has also admitted that he has married another woman. According to the petitioner, despite the above, there is suppression on the part of the 6th respondent, in not disclosing the correct particulars, regarding subsisting marital status and omissions on the part of the respondents 1 to 5, in not making necessary entries in the official records. The Central Administrative Tribunal, Madras, vide order, dated 25.09.2014, in Diary No.4997 of 2014, has dismissed the said application, on the grounds, inter alia that

the reliefs sought for, in the Original Application, would not fall within the purview of service matter, as per Section 3(q) of the Administrative Tribunals Act, 1985 and thus, the Tribunal has no jurisdiction.

15. The official respondents in their reply to the present writ petition, have contended that the subject matter of the writ petition does not fall within the definition, "Service matter" under Section 3(q) of the Administrative Tribunals Act, 1985. Moreover the petitioner has no locus standi nor any specific order passed by the respondents, is challenged. The Original Application is in the nature of an execution petition, which the Petitioner ought to have filed, in the Family Court.

16. Without prejudice to the foregoing submissions, the respondents have submitted that S.Ruban, was appointed as Khalasi on 15.7.1973. During the year 1975, he married one Smt. Fathima Mary, and out of the marriage, one female child, by name, Kanchana, was born in the year 1976. After the death of Smt. Fathima Mary, in the year 1979, he married the Petitioner on 19.3.1979, as per Hindu Customs.

17. It is submitted that the petitioner has filed W.P.No.9443 of 2009 and this Court directed the General Manager, the 5th Respondent herein to consider the representations of the Petitioner, dated 1.11.2008 and 1.3.2009 and to pass appropriate orders on merits. Accordingly, the General Manager, vide order, dated 12.8.2009, disposed of the representation stating that settlement benefits like Pension, DCRG, Leave Salary etc., are payable only to the employee on his superannuation, and as regards, family pension, appropriate decision will be taken, as and when, contingency arises and further contended that as there was no order of attachment of salary, towards maintenance amount, no action could be taken and also rejected her claim for appointment to her son. A show cause notice dated 26.10.2009 was also issued to S.Ruban, Sr.Technician seeking for his explanation on the charges of bigamy.

18. The respondents have further submitted that a charge memorandum No.G/22/DAR/123/MS, dated 16.11.2009, was issued to S.Ruban, 6th Respondent for the misconduct of bigamy. In the meanwhile, he retired on 30.11.2009. The disciplinary proceedings initiated could not be concluded before retirement. He was allowed to retire and all the records relating to disciplinary proceedings were sent to the President of India, under Rule 9 of the Railway Services Pension Rules, 1993.

19. The respondents have submitted that the President considered the disciplinary case of S.Ruban in consultation with the U.P.S.C. and ordered that 25% of monthly pension be withheld

on permanent basis and that the same was conveyed vide order in No.E[D&A]/2010/AE/7/8 dated 14.12.2012. S.Ruban is getting only 75% of the pension and Gratuity was also released based upon the recommendation of the U.P.S.C.

20. It is submitted that the Petitioner had filed a maintenance case in M.C.No.240/2004 before the 1st Additional Principal Family Court, Chennai and the learned Judge, awarded maintenance at the rate of Rs.1500/- per month. Thereafter, her husband preferred the Revision Petition before this Court in Crl.R.C.No.901/2005 and the same has been dismissed on 21.8.2008. But fact remains that neither in M.C.No.240/2004 nor in Crl.R.C.No.901/2005, Railways was a party. Further, there was no specific order to Railways for attaching the salary or the arrears of maintenance amount of the Petitioner.

21. The respondents have submitted that reliance of the petitioner on the order in W.A.No.901 of 2005 is misconceived as this Court had not directed the Railway Administration to recover any maintenance amount from S.Ruban and the Court only observed that the Petitioner herein to produce a copy of the order made in Criminal Revision Case No.901 of 2005, before the concerned authority for receiving the arrears of maintenance. It is also submitted that Railways is not the appropriate legal forum for enforcing the order.

22. The respondents have further submitted that the petitioner ought to have filed an execution petition before the Family Court, at Chennai. Instead of doing so, the Petitioner has filed the Original Application before the Tribunal, which has been rightly dismissed on 25.09.2014, holding that the Tribunal has no jurisdiction.

23. The official respondents have further submitted that they cannot recover any pension from the 6th respondent, as pension cannot be attached. It is further submitted that the impugned order is in accordance with law. It is further submitted that S.Ruban has been imposed with a penalty of 25% cut in pension, permanently for the misconduct of bigamy.

24. The official respondents have further submitted that the Tribunal is not an executing court and the relief sought for by the Petitioner, cannot be granted by the Tribunal. No amount is available with the Railway Administration, due to be paid to Shri.S.Ruban. The term "any other matter whatsoever" cannot be given a wider meaning, in the light of the principle of "ejusdem generis". Grant of maintenance is not a service matter and therefore the Tribunal has rightly dismissed the Original Application.

25. The 6th respondent has not declared anybody as his wife, in the family composition, meant for the purpose of family pension. Further, the Railway Administration has not recorded any stranger as his wife. In the absence of the above, the official respondents cannot enter the name of the petitioner as nominee and the same can be decided, as and when occasion arises. Further, the averment that criminal prosecution should be launched against the concerned for aiding the 6th respondent, in getting the terminal benefits is baseless and without any merits, as necessary administrative action has been taken, in accordance with the rules.

26. It is further submitted that this Court, by its order dated 05.01.2010, in W.P. No.22782 of 2009, at paragraph No.5, clearly held that the petitioner has failed to seek execution of the order of the Family Court and therefore, it is clear that the remedy lies only in the Family Court and she has failed to avail the same and has been repeatedly filing cases before various legal Fora, which lacks jurisdiction to enforce the order for maintenance. For the abovesaid reasons, it is submitted that the order passed by the authorities, is well within the norms.

27. Assailing the correctness of the order made in the above Dairy Application and inviting the attention of this Court to the definition of "Service Matters" in Section 3(q) of the Administrative Tribunals Act, 1985, Mr. Shanmugham, learned counsel for the petitioner submitted that "service matters" includes pension and other retirement benefits. He further submitted that the expression "any other matter, whatsoever" in Section 3(q)(i) of the Act, would embrace the grievance of the petitioner, in relation to the maintenance amount, ordered by the Courts and omissions on the part of the official respondents to launch prosecution against the 6th respondent and to make alteration in the service records, as to the marital status of the petitioner, regarding family pension, are matters, within the purview of the Tribunal. In this context, he took this Court to the various orders passed by this Court.

28. Learned counsel for the petitioner contended that it was the High Court, which gave liberty to the petitioner to approach the Railway Administration for enforcement of the order of maintenance and also submitted that when W.P.Sr.No.33687 of 2014, was disposed of on 03.04.2014, it was the Registrar of this Court, who has made objections, to the filing of the writ petition, by stating that the subject matter of dispute, has to be addressed only before the Central Administrative Tribunal, Madras and when the Tribunal has dismissed the Dairy Application, the petitioner is left with no other alternative. The authorities, Forums and High Court have declined to grant

suitable reliefs to the petitioner, who has not been paid maintenance from 2004 onwards.

Heard the learned counsel for the parties and perused the material on record.

29. Administrative Tribunals Act, 1985, has been enacted to provide for the adjudication or trial by Administrative Tribunals of disputes and complaints with respect to recruitment and conditions of service of persons appointed to public services and posts in connection with the affairs of the Union or of any State or of any local or other authority within the territory of India or under the control of the Government of India or of any corporation or society owned or controlled by the Government in pursuance of Article 323-A of the Constitution and for matters connected therewith or incidental thereto. Section 3(q) defines, "service matters", as follows:

"3(q) "service matters", in relation to a person, means all matters relating to the conditions of his service in connection with the affairs of the Union or of any State or of any local or other authority within the territory of India or under the control of the Government of India, or, as the case may be, of any corporation or society owned or controlled by the Government, as respects-

- (i) remuneration (including allowances), pension and other retirement benefits;
- (ii) tenure including confirmation, seniority, promotion, reversion, premature retirement and superannuation;
- (iii) leave of any kind;
- (iv) disciplinary matters; or
- (v) any other matter whatsoever."

30. Section 3(r) defines, "service rules as to redressal of grievances", in relation to any matter, means the rules, regulations, orders or other instruments or arrangements as in force for the time being with respect to redressal, otherwise than under this Act, of any grievances in relation to such matters;

31. Section 14 of the said Act deals with jurisdiction, powers and authority of the Central Administrative Tribunal and the same is extracted hereunder:

14. Jurisdiction, powers and authority of the Central Administrative Tribunal:- (1) Save as otherwise expressly provided in this Act, the Central

Administrative Tribunal shall exercise, on and from the appointed day, all the jurisdiction, powers and authority exercisable immediately before that day by all courts (except the Supreme Court in relation to-

(a) recruitment, and matters concerning recruitment, to any All-India Service or to any civil service of the Union or a civil post under the Union or to a post connected with defence or in the defence service, being, in either case, a post filled by a civilian;

(b) all service matters concerning-

(i) a member of any All-India Service; or

(ii) a person not being a member of an All-India Service or a person referred to in clause (c) appointed to any civil service of the Union or any civil post under the Union; or

(iii) a civilian not being a member of an All-India Service or a person referred in clause (c) appointed to any defence services or a post connected with defence, and pertaining to the service of such member, person or civilian, in connection with the affairs of the Union or of any State or of any local or other authority within the territory of India or under the control of the Government of India or of any corporation or society owned or controlled by the Government;

(c) all service matters pertaining to service in connection with the affairs of the Union concerning a person appointed to any service or post referred to in sub-clause (ii) or sub-clause (iii) of clause (b), being a person whose services have been placed by a State Government or any local or other authority or any corporation or society or other body, at the disposal of the Central Government for such appointment.

Explanation - for the removal of doubts, it is hereby declared that references to "Union" in this sub-section shall be construed as including references also to a Union territory."

32. Jurisdiction, powers and authority of State Administrative Tribunals is dealt with, in Section 15 of the Act, in the same manner. Section 19 deals with applications to the Tribunals and the same reads as follows:

"19. Applications to the Tribunals:- (1) Subject to the other provisions of this Act a person aggrieved by any order pertaining to any matter within the jurisdiction of a Tribunal may make an application to

the Tribunal for the redressal of his grievance.

Explanation - For the purposes of this sub-section, "order" means an order made -

(a) by the Government or a local or other authority within the territory of India or under the control of the Government of India or by any corporation or society owned or controlled by the Government; or

(b) by an officer, committee or other body or agency of the Government or a local or other authority or corporation [or society] referred to in clause (a).

(2) Every application under sub-section (1) shall be in such form and be accompanied by such documents or other evidence and by such fee (if any, not exceeding one hundred rupees) in respect of the filing of such application and by such other fees for the service or execution of processes, as may be prescribed by the Central Government.

(3) On receipt of an application under sub-section (1), the Tribunal shall, if satisfied after such inquiry as it may deem necessary, that the application is a fit case for adjudication or trial by it, admit such application; but the Tribunal is not so satisfied, it may summarily reject the application after recording its reasons.

(4) Where an application has been admitted by a Tribunal under sub-section (3), every proceeding under the relevant service rules as to redressal of grievances in relation to the subject-matter of such application pending immediately before such admission shall abate and save as otherwise directed by the Tribunal, no appeal or representation in relation to such matter shall thereafter be entertained under such rules."

33. In *Dr.H.Mukherji v. Swadesh Kumar Bhargava*, reported in 1994 (II) LLN 304, a subordinate officer filed a suit for recovery of damages against a superior officer for harassment. The latter raised a preliminary objection, in terms of Section 14 of the Central Administrative Tribunal Act, 1985, contending that the Civil Court has no jurisdiction to adjudicate that dispute, but the same was rejected. He filed a first appeal before the Nagpur Bench of the Bombay High Court and contended that the act accused of, for a remedy under tort, has definite nexus with the official functions and, therefore, the Civil Court has no jurisdiction. The matter had gone to the Administrative Tribunal. Reiterating the said submission and holding that the suit does not claim any relief in relation to recruitment or condition of service on the term "any other matter whatsoever" occurring in Section 3 (q) of the Act should

have proximity with recruitment or conditions of service, the Nagpur Bench of the Bombay High Court dismissed the first appeal.

34. On further appeal, in Dr.H.Mukherjee v. S.K.Bhargava reported in AIR 1996 SC 1760, after considering the Sections 14 and 28 of the Administrative Tribunals Act, the Hon'ble Supreme Court, at Paragraph 6, held as follows:

"6. The Tribunals under the Act are thus conferred with the exclusive jurisdiction, powers and authority exercisable immediately before the appointed day by all Court [except the Supreme Court] in relation to the matters set out in clauses (a), (b) and (c) of subsection (1) of Section 14. The question is the present suit does fall under any the said clauses. We do not think that it does. The suit appears to be one based on alleged tortious acts of the defendant committed with a view harass the plaintiff and cause him mental pain and injury. At this stage, it is not our province to say that whither the allegations are true or false. We have to take the plaint allegations as they stand. We also assume for the purpose of this appeal that such a suit does lie according of law since no contention the contrary has been urged fore us nor was urged before the civil court. This is a pure action for damages for deliberately harassing the plaintiff by passing several vindictive and malafide orders and proceedings and also by fabricating official records. Such a for damages is certainly not within the province of Section 14."

35. A reading of the above judgment indicates that where a claim for damages arising out of an alleged tortious act was sought to be transmitted to the Central Administrative Tribunal for adjudication, in terms of Section 14 of the Administrative Tribunals Act, 1985, the Hon'ble Apex Court held that a claim for damages for causing mental harassment of the subordinate officer by the superior officer cannot be maintained before the Administrative Tribunal. From the judgment, it could be deduced that personal acts involving liability, cannot be adjudged by the Tribunal, in exercise of its jurisdiction.

36. In Union of India vs. Rasila Ram And Ors., reported in JT 2000 (10) SC 503, an order of eviction passed under the Public Premises (Eviction of Unauthorised Occupants) Act, 1971, was questioned by the Government servant under Section 19 of the Administrative Tribunals Act, 1985. A Full Bench of the Central Administrative Tribunal recorded a finding, that an order passed by the competent authority under the Public Premises (Eviction of Unauthorised Occupants) Act, 1971, would also come under the purview of the jurisdiction of the Administrative Tribunal,

constituted under the Act, 1985. The Tribunal, in the judgment, construed the expression "service matter" defined in Section 3 (q) of the Administrative Tribunals Act, 1985, within the parameter or expression "any other matter whatsoever", occurring in Clause (v) thereof, and that, therefore, held that the Tribunal retains the jurisdiction over the same, in view of the overriding effect given to the Administrative Tribunals Act, by virtue of Section 33. Testing the correctness of the Full Bench order, the Department went on appeal to the Hon'ble Supreme Court and at para 2, the Apex Court held as follows :

"2. The Public Premises (Eviction of Unauthorised Occupants) Act, 1971 (hereinafter referred to as the "Eviction Act") was enacted for eviction of unauthorised occupants from public premises. To attract the said provisions, it must be held that the premises was a public premises, as defined under the said Act, and the occupants must be held unauthorised occupants, as defined under the said Act. Once, a Government servant is held to be in occupation of a public premises as an unauthorised occupant within the meaning of Eviction Act, and appropriate orders are passed thereunder, the remedy to such occupants lies, as provided under the said Act. By no stretch of imagination the expression, "any other matter," in Section 3(q)(v) of the Administrative Act would confer jurisdiction on the Tribunal to go into the legality of the order passed by the competent authority under the provisions of the Public Premises (Eviction of Unauthorised Occupants) Act, 1971. In this view of the matter, the impugned assumption of jurisdiction by the Tribunal, over an order passed by the competent authority under the Eviction Act, must be held to be invalid and without jurisdiction. This order of the Tribunal accordingly stands set aside. The appeals are accordingly allowed."

37. A reading of the above judgment makes it clear that if the relief claimed is outside the purview of the Administrative Tribunals Act, which the Government servant can ventilate under the provisions of other laws, under which an order adverse to him is passed, he has to work out his remedy, only before the particular forum or Court, as the case may be, and that the civil servant is not entitled to approach the Administrative Tribunal, by filing an application under Section 19 of the Act, contending, inter alia, that the dispute falls within the definition of "service matter" or "in relation to service matter".

38. The Administrative Tribunals Act, 1985, is intended to adjudicate the disputes of civil servants and the expression "in

relation to service matters" in Section 3 (q) of the Act has to be read and construed to mean that primarily, it is only the civil servant, aggrieved by an order or aggrieved over inaction on the part of the authorities, by which, his rights under the service laws applicable to him are affected or person aggrieved, at the recruitment stage, can file an application under Section 19 of the Act, to raise any dispute and it cannot be done by 'open sesame'.

39. Reading of the provisions of the Act read with the rules thereunder makes it clear that the very enactment is to enable the civil servants or those, brought under the purview of the Tribunal, to approach the Tribunal, if he is aggrieved by an order or in case of inaction on the part of the authority, to pass any order, in relation to the conditions of service, as per the service rules, applicable to him.

40. Service matters dealt with in the respective service rules can be enforced only by the civil servant. A right under personal law or civil law, cannot be adjudicated by the Tribunal, under the provisions of the Administrative Tribunals Act, 1985, by filing an application under Section 19 of the Act.

41. When the very purpose of the Act is to enable the civil servant to ventilate his grievances with regard to service matters and recruitment and when the civil servant is precluded from approaching the Tribunal for the relief, for which, a separate Court or forum is available, equally, the same yardstick has to be applied to others also. Intention of the legislature is not to confer jurisdiction on the Tribunal, on all matters, for which there are separate enactments, declaring the rights, and enforcement of any order, thereof. At this juncture, it is also worthwhile to note that when a particular thing has to be done, in a manner provided for and not otherwise. Useful reference can be made to few decisions,

(i) In T.Ramamoorthy v. The Secretary, Sri Ramakrishna Vidyalaya High School, etc. & Others reported in 1998 Writ. LR 641, at Paragraph 6, the Court held as follows:

"This principle that where a power is given to do a certain thing in a certain way, things must be done in that way and not otherwise and that the other method of performance is necessarily precluded, is not only well settled, but squarely applies to this case also in construing the scope of the power as also its exercise by the management under Section 22 of the Act."

(ii) In U.P. State Bridge Corpn. Ltd. v. U.P. Rajya Setu Nigam S. Karamchari Sangh, reported in [(2004) 4 SCC 268], the Hon'ble Supreme Court, at Paragraph 12, held as follows:

"12. Although these observations were made in the context of the jurisdiction of the civil court to entertain the proceedings relating to an industrial dispute and may not be read as a limitation on the Court's powers under Article 226, nevertheless it would need a very strong case indeed for the High Court to deviate from the principle that where a specific remedy is given by the statute, the person who insists upon such remedy can avail of the process as provided in that statute and in no other manner."

(iii) In *Captain Sube Singh v. Lt. Governor of Delhi* reported in (2004) 6 SCC 440, the Hon'ble Supreme Court, at Paragraph 29, held as follows:

"29. In *Anjum M.H. Ghaswala*, a Constitution Bench of this Court reaffirmed the general rule that when a statute vests certain power in an authority to be exercised in a particular manner then the said authority has to exercise it only in the manner provided in the statute itself. (See also in this connection *Dhanajaya Reddy v. State of Karnataka*.) The statute in question requires the authority to act in accordance with the rules for variation of the conditions attached to the permit. In our view, it is not permissible to the State Government to purport to alter these conditions by issuing a notification under Section 67(1)(d) read with sub-clause (i) thereof."

(iv) The Hon'ble Supreme Court in *State of Jharkhand v. Ambay Cements* reported in 2005 (1) CTC 223, at Paragraph 27, held as follows:

"27. Whenever the statute prescribes that a particular act is to be done in a particular manner and also lays down that failure to comply with the said requirement leads to severe consequences, such requirement would be mandatory. It is the cardinal rule of the interpretation that where a statute provides that a particular thing should be done, it should be done in the manner prescribed and not in any other way. It is also settled rule of interpretation and where a statute is penal in character, it must be strictly construed and followed. Since the requirement, in the instant case of obtaining prior permission is mandatory, therefore, non-compliance of the same must result in cancelling the concession made in favour of the grantee-the respondent herein."

42. Right to claim maintenance by the wife is available under Section 125 Cr.P.C., or under Sections 24 and 25 of the Hindu Marriage Act or under the Hindu Adoption and Maintenance Act. The words "service matters", cannot be stretched to include maintenance also and an order passed, granting maintenance cannot be enforced against the husband by filing an application under Section 19 of the Administrative Tribunals Act.

43. When the rights of the parties on the basis of personal law or civil law, applicable to them, culminate into an order or a decree, execution of which has to be done only in the manner as provided for in the said laws, and not by the Tribunal, which is constituted only to deal with service matters, and if the contention of the petitioner is accepted, then, it would amount to conferring the jurisdiction on the Tribunal.

44. The expression "person aggrieved" in Section 19 of the Act implies that a person who makes an application must be having an enforceable right under the service rules. The petitioner who has obtained an order of maintenance from the Court of competent jurisdiction has no enforceable right under the service rules, to make an application under Section 19 of the Act, to the Tribunal.

45. Non-payment of maintenance amount ordered by the Court is not a service matter of the civil servant, to be adjudged by the Tribunal constituted under Article 323-A of the Constitution of India, more particularly, when an alternative remedy under Section 128 of the Criminal Procedure Code is available for execution of an order, to the party in whose favour, an order under Section 125 Cr.P.C., is made.

46. From the material on record, it could be seen that when the petitioner filed her first W.P.No.9443 of 2009, to pass orders on her representation, dated 01.11.2008, followed by a reminder, dated 02.03.2009, this Court, vide order, dated 27.05.2009, directed the Railway Administration to pass orders. Pursuant to the same, railways has passed an order on 12.08.2009, stating that the retirement benefits can be granted only to the employee. They have also replied to the petitioner that as regards family pension, appropriate decision regarding the eligible person, would be taken as per law, as and when contingency arises. They have also replied that as there was no order of attachment of salary towards maintenance amount, no action in this regard can be taken by the administration.

47. Subsequently, when the petitioner filed another W.P.No.22782/09, praying for a direction to the respondents therein to dispose of the representation, dated 09.10.2009, this Court, by order, dated 05.01.2010, has clearly observed that the

Family Court has not ordered attachment of the salary and by filing M.P.No.1 of 2009, for an injunction, restraining the respondents therein, the issue in terms of the Family Court's order cannot be decided. The Court has not granted any injunction against the official respondents and categorically observed that the petitioner has failed to take steps to execute the order of maintenance. When W.A.No.119 of 2010, was filed against the order made in W.P.No.22782 of 2009, dated 05.01.2010, the Hon'ble Division Bench, while rejecting the contentions of the petitioner, has confirmed the stand of the official respondents.

48. When the petitioner filed W.P.No.19345 of 2010, challenging the reply, dated 12.08.2009, of the Senior Personnel Officer/M&E/Chief Personnel Officer, Chennai and sought for a direction to the respondents to correct the entries, showing the petitioner as the legally wedded wife and entitled to claim as successor to the terminal benefits and to disburse the maintenance amount from out of the terminal benefits, in compliance with the orders of the Family Court in M.C.No.214 of 2004 and Crl.R.C.No.901 of 2006, dated 21.08.2008, this Court vide order, dated 27.10.2010, in W.P.No.19345 of 2010, upheld the order of the Railways, dated 12.08.2009 and sustained all the reasons contained therein.

49. Repeated filing of the writ petitions and suppression of filing of previous writ petition has been taken note of. When this Court on more than one occasion has sustained the action of the railways, holding that there was irregularity or illegality in the order, dated 12.08.2009, the petitioner has now come forward to attack the officials. Though in all the orders, the Court had indicated that a remedy is available to the petitioner, to enforce the maintenance order, she has chosen to find fault with the officials, despite the fact that the order, dated 12.08.2009 of the respondents, is sustained. The petitioner has not chosen to take any recourse under the procedural law for enforcement, but has invoked the jurisdiction of this Court, under Article 226 of the Constitution of India, by filing a writ petition, for the reliefs, stated supra, which she has not pursued and lateron moved the Tribunal.

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50. From the reading of the order made in W.P.Sr.No.33687 of 2014, dated 03.04.2014, it could be deduced that the said writ petition has been disposed of, at the SR stage, for the reasons, contained therein. Arguments of the learned counsel for the petitioner, in the present writ petition, that because of the order made in W.P.Sr.No.33687 of 2014, dated 03.04.2014, she was constrained to move the Administrative Tribunal, under Section 19 of the Act, at first blush, may appear to have a point, on

which the petitioner rests her case, but the question for consideration, is whether, the Administrative Tribunal has jurisdiction to delve into matters, relating to non-payment of maintenance or alteration of entries, in the pension nomination papers, if any, submitted by the employee, more particularly, in the case on hand, where the employee has not nominated anybody as his wife.

51. Railways is not a party in the inter-se dispute between the husband and wife, regarding maintenance. However, if any representation from the petitioner, had been acknowledged, then the Railways can, at best, be said to be within their knowledge of the claim made by the petitioner, against her husband. There is no attachment of salary or retiral benefits. Even taking it for granted that the High Court has permitted the petitioner to make a representation to the Railways, along with the copy of the order in Crl.R.C.No.901 of 2005 dated 21.08.2008, it cannot be gainsaid that the High Court had directed recovery from his salary, which aspect has been considered, in the earlier orders.

52. The prayer sought for, for making corrections in the service records have also been taken note of, when this Court considered the said prayer in W.P.No.19345 of 2010, dated 27.10.2010. Expression "service matter in relation to a person" cannot be extended to mean recovery, to be done by the Tribunal, for the maintenance ordered.

53. Going through the entire material on record, this Court is of the view that the prayer sought for by the petitioner to direct the Railway Administration/respondents 1, 2 and 4, to comply with the order passed by the High Court, in Crl.R.C.No.901/2005 dated 21.08.2008, followed by another order of the Hon'ble Division Bench, in Crl.O.P.No.21125 of 2011, dated 08.10.2013, cannot be ordered by the Tribunal, for the reason that in Crl.R.C.No.910 of 2015 dated 21.01.2008, this Court only permitted her to produce the copy of the order before the Railways and in the subsequent order in Crl.O.P.No.21125 of 2011, dated 08.10.2013, without going into the merits of the allegations contained in the complaint, this Court, has permitted the petitioner, to work out her remedy, in the manner known to law in the Department where her husband was employed. The issue, as to whether, Railway Administration, has committed any error in not complying with the orders made in Crl.R.C.No.901/05, dated 21.08.2008, has also been considered by this Court in the order, dated 27.10.2010, in W.P.No.19345 of 2010.

54. In so far as the relief, directing the Railway Administration/respondents 1, 2 and 4, to initiate action against the concerned officials/Southern Railways, for not prosecuting the husband/sixth respondent, for having committed

an act of bigamy, and to take action against the sixth respondent, it could be deduced from the pleadings that Railway administration has already taken disciplinary action, and after conducting an enquiry, imposed a punishment.

55. Act of committing bigamy by the sixth respondent, though may give raise to a cause of action for prosecution, that cannot be initiated by the Railways. Railway administration cannot be said to be person aggrieved to launch prosecution, against the sixth respondent. Person aggrieved is the petitioner and she has also initiated action against her husband, for bigamy. When the petitioner herself has initiated criminal action, it is not open to the petitioner to find fault with Railways, contending that they have failed to initiate criminal prosecution, against the sixth respondent, and therefore, the prayer directing the Railway administration, respondents 1, 2 and 4, to initiate prosecution, is not maintainable.

56. The relief for a direction against the railway administration to initiate action against the concerned officials of the Southern Railways, for disbursing the entire terminal benefits to the sixth respondent, without recovering the arrears of maintenance and without initiating any penal action for the act of bigamy, committed by the 6th respondent, also cannot be granted by the Tribunal, for the reason that the Railways was not a party to any of the proceedings nor this Court had issued any directions to Railways not to disburse the terminal benefits, without recovering arrears of the maintenance. The Court has only sustained the maintenance order passed by the learned Magistrate and while doing so, has only granted liberty to the petitioner to approach Railways.

57. As stated supra, reply of the railways, dated 12.08.2009, has also been sustained by this Court in W.P.No.22782 of 2009, dated 05.01.2010 and confirmed in W.A.No.119 of 2010, dated 05.08.2010. Nothing prevented the petitioner from filing a petition under Section 128 of the Code of Criminal Procedure, for enforcement of the order made in M.C.No.240 of 2004 dated 22.06.2004 and confirmed in CrI.R.C.No.901 of 2005 dated 21.08.2008.

58. No direction has been issued by this Court, to Railways, to settle the maintenance amount from 2004. When there was no specific directions by this Court, against Railways for disbursement of the maintenance amount nor there was any order, restraining railways from disbursing the terminal benefits and in the above circumstances, Southern Railways have disbursed the entire terminal benefits to the 6th respondent. This aspect has also been considered by this Court, when the petitioner filed

M.P.No.1 of 2010, in W.P.No.27782 of 2009, seeking for an injunction against the railway administration not to grant the terminal benefits.

59. Unless there is any order passed by a competent Authority to withhold any amount payable by the employer or an order from any Court of Law, restraining disbursement of the terminal benefits, to the extent permissible under any Law, an employee, who is otherwise entitled to retiral benefits, has to be paid the same immediately.

60. Notwithstanding, the inter se disputes between the spouses, employer cannot withhold the retiral benefits and the petitioner has been informed, vide letter, dated 12.08.2009 and that the said letter, when challenged, has been confirmed by this Court in W.P.No.19345 of 2010, dated 27.10.2010. While that be so, the contention of the petitioner, still there is a cause for initiating action against the officials of the department is liable to be rejected. Act of disbursement of terminal benefits to the sixth respondent will not give rise to a cause of action to direct the Railways, to take action against the concerned officials.

61. Relief No.4 claimed by the petitioner in the original application filed before the Central Administrative Tribunal, is to direct the Railway authorities to initiate action against the concerned officials for deliberately recording incorrect particulars in the pension papers of the sixth respondent by showing a stranger, as the wife of the 6th respondent, when the petitioner is the legally wedded wife of the 6th respondent. It is to be noted that normally, particulars in the nomination proforma, are filled up only by the employee. Whenever, a proforma is submitted by the employee, no roving enquiry is conducted by the employer. Such particulars in the usual course, are taken note of, unless there is any glaring difference in any records maintained by the employer.

62. The contention of the petitioner that the officials have deliberately entered incorrect particulars, in the pension papers of the 6th respondent, cannot be accepted, for the simple reason that as per the stand of the of the Railways, the petitioner has not nominated anybody to receive family pension and when there is no entry in the family pension proposals, the officials of the railway department cannot be said to have entered incorrect particulars. Direction to the Railway administration/respondents 1, 2 and 4, to recover the terminal benefits of the 6th respondent, if any, a sum of Rs.2 lakhs,

amount allegedly incurred by the petitioner towards medical expenses, cannot be granted.

63. On the facts and circumstances of the case, the prayer to direct the Railway administration, to initiate criminal action against the 6th respondent as well as the concerned Railway officials for deliberately recording incorrect information in the official records, also cannot be granted, as the employee himself has not come forward to declare, as to who is entitled to receive family pension. The prayer is wholly misconceived.

64. Payment of family pension is an event, after the death of an employee. As of now, it is the case of the official respondents that no specific name has been mentioned in the nomination. While sustaining the order of maintenance, status of the petitioner, as wife has been recognised. Therefore, when the petitioner through her representations, has brought to the notice of Railways about the orders of the Court, recognising her status as wife, the question that calls for consideration is whether the Railways can suo-motu make entries and in the event of the death of the employee, could disburse family pension. Railways in their letter, dated 12.08.2009, has stated that the issue would be considered at the stage, when contingency arises and in W.P.No.19345 of 2010, dated 27.10.2010, the stand of the official respondents has been confirmed.

65. On the conclusion of Disciplinary Proceedings and based on the recommendation of the Union Public Service Commission, 25% of the monthly pension has been cut on 14.12.2012, on permanent basis, and there is no challenge to the said order by the 6th respondent. Gratuity has been released. Before the Enquiry Officer, the fifth respondent has admitted that he had married Manimozhi on 19.03.1979, but she deserted him. He had a daughter by name R.Kanchana, aged 3 years. According to the 6th respondent, as the petitioner did not return, he engaged Lourdhu Mary, to take care of his young child, for cooking and washing, in the year 1982.

66. The 6th respondent has further stated that Lourdhu Mary is the mother of his sons R.Anthony Raj and R.Arul Raj. However, he has also added that sons' names have been deleted in G.P.23, on their attainment of age of 21 years. While replying to the National Commission for Scheduled Castes and Scheduled Tribes, to the representation of the petitioner, regarding non-payment of maintenance amount to the petitioner, the Chief Personnel Officer, in his letter dated 14.07.2015, addressed to the Assistant Director, National Commission for Scheduled Castes, Chennai, has stated that the benefits like pension,

DCRG, leave salary etc., due payable to the employee were disbursed, as there was no order of attachment of salary towards maintenance amount and hence, no action could be taken. He has also stated that the claim for appointment to her son has been rejected. The Chief Personnel Officer, Railways has also stated that as regards family pension, a decision would be taken, as and when contingency arises.

67. Thus, as rightly observed by the Central Administrative Tribunal, Madras, the prayers sought for by the petitioner towards enforcement of the maintenance order and in the light of the orders of this Court, action to be taken against the officials, would not fall within the purview of service matters of the petitioner, as per Section 3(q) of the Administrative Act, 1985. None of the prayers sought for by the petitioner can be considered by the Tribunal.

68. In the light of the above discussion and decisions, this Court is of the considered view that there are no merits in the writ petition and accordingly, it is dismissed. No costs. Consequently, connected Miscellaneous Petition is also closed.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

To

1. The Registrar,
Central Administrative Tribunal,
Chennai.

2. The Chairman
Rail Bhavan,
Railway Board,
New Delhi.

3. The Member (Admn.)
Rail Bhavan,
Railway Board,
New Delhi.

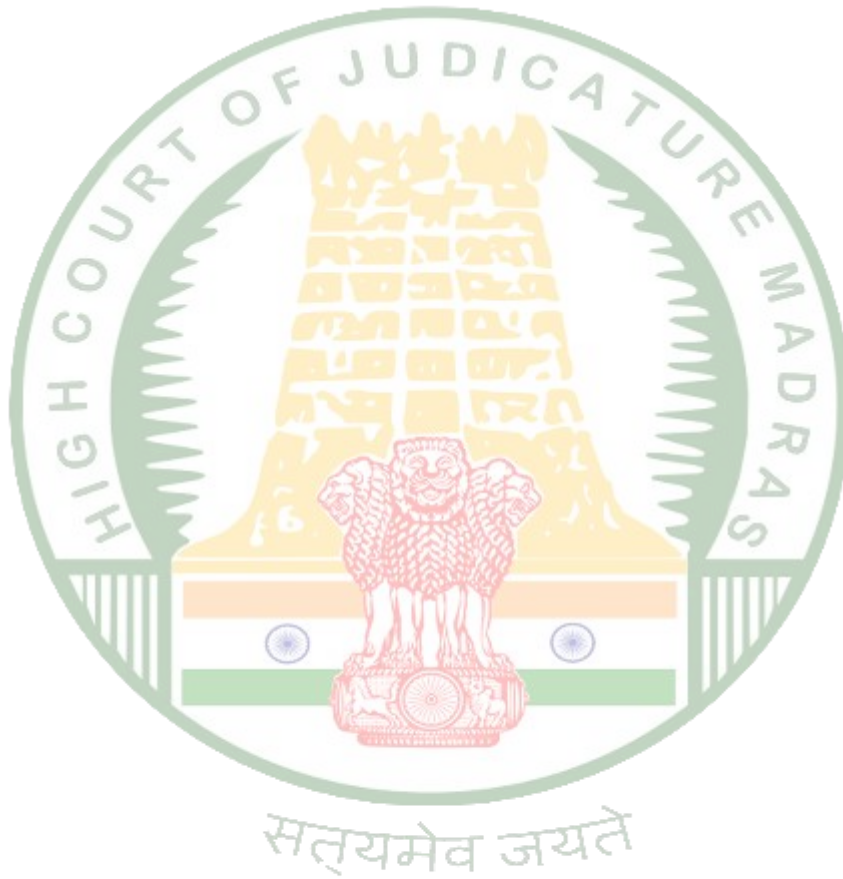
4. The Chairman
National Commission for Scheduled Castes and
Scheduled Tribes, New Delhi.

5.The General Manager
Southern Railway
Madras-3.

+1cc to M/S.Shanmuga Associates, Advocate sr.69305

W.P.No.15923 of 2015

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srg 12/01/2016



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